ANN EE SIONG v. KIM TAW ELECTRIC SAWMILL CO. (PTE.) LTD.

[O.C.J. (Sinnathuray J.) October 2, 1979]
[Singapore — Suit No. 2875 of 1976]

Tort — Negligence — Duty to provide safe system of work — Lorry parked lop-sided — Logs rolling off lorry injuring plaintiff — Res ipsa loquitur.

Employment — Employers' duty to provide safe system of work — Injury caused by logs rolling off parked lorry — Res ipsa loquitur.

The plaintiff in this case was injured by timber logs rolling off a lorry parked at the unloading bay at the defendant company's sawmill. The lorry was parked with one side of it on the road and the other side of it on the verge. It was slightly lopsided.

Held: (1) the principle of *res ipsa loquitur* applied in this case; a *prima facie* case of negligence was established;

(2) the defendant company had a duty to provide a safe system of work. There had been a breach of that duty and that resulted in the accident.

CIVIL SUIT.

Chiam See Tong for the plaintiff.

Joe Chellam for the defendant.

Sinnathuray J. (delivering oral judgment): This case was part-heard on September 5. At that hearing, the plaintiff's case had concluded. The evidence for the plaintiff was that on the material day, August 25, 1973, as a result of timber logs rolling off a lorry parked at the unloading bay at the defendant company's sawmill, he was injured. He said that the lorry had arrived at the unloading bay and had been left stationary there for about an hour. The chains around the timber logs had been unfastened but the wedges that held the logs were left intact. A finding of fact that I make is that the lorry was parked with one side of the lorry on the road and the other side of it on the verge. It would mean the lorry was slightly lopsided. The evidence is that it is the usual way lorries are parked at the sawmill for the unloading of timber logs as the unloading bay is adjacent to the verge of the road. The issue is whether the defendant company had provided a safe system of work. In my judgment, to allow lorries to be parked as I have described is not providing a safe system of work.

That day, when the plaintiff went to the lorry (he went with the lorry driver), and when he was close to the lorry, the logs rolled off the lorry. As I said in the course of the submission that piece of evidence brings into operation the principle of *res ipsa loquitur*. A *prima facie* case of negligence was established, and the defence was heard.

Today I have heard two witnesses for the defence. I do not propose to summarise their evidence. They have given an explanation as to how the accident occurred. They put the blame altogether on the plaintiff. Their evidence is that though it was not part of the work of the plaintiff he went and dislodged the last of the three wedges that caused the logs to roll off the lorry. I do not accept their version of how the accident came about. There are a number of unsatisfactory features in their evidence. Their evidence does not ring truth. On the other hand, the plaintiff has been with the defendant company for nineteen years, doing the work he was doing that day. It cannot be that he would do a foolish act as that alleged of him. I prefer the evidence of the plaintiff. He said: "The logs must have suddenly fallen off because where the lorry was parked was a public road. Many other vehicles travelled on it. The vibrations must have caused the logs to fall off. This sort of thing, of logs falling off, has happened quite often at this sawmill. It is only that on those occasions no one was injured."

I find that the defendant company has a duty to provide a safe system of work, that there had been a breach of that duty and that resulted in the accident that day. I find the defendant company negligent.

The next issue is: Has there been any contributory negligence on the part of the plaintiff? I invited counsel to address me on it. Having had the benefit of their submissions, I am satisfied that there was no negligence that can be attributed to the plaintiff. The damages are agreed between the parties. There will be judgment for the plaintiff for $70,500 and costs.

Claim allowed.

Solicitors: *Chiam & Co.; Joe Chellam.*

LAU CHOONG CHOO v. CHOU WE CHUAN

[O.C.J. (D'Cotta J.) November 19, 1979]
[Singapore — Originating Summons No. 74 of 1973]

Family Law — Divorce — Matrimonial home — Wife's claim for equal shares in property — Common intention and conduct of parties — Women's Charter (Cap. 47), s. 55.

Women's Charter — Title to property — Common intention of the parties and surrounding circumstances must be considered by court — Women's Charter (Cap. 47), s. 55.

The parties in this case, both teachers, were married in 1963. In August 1968 they bought their matrimonial home, No. 31 Moonbeam Walk, Singapore, for $41,750. The respondent moved out of the house in March 1973 when the applicant instituted divorce proceedings which culminated in 1974 in her obtaining a decree nisi absolute on the grounds of cruelty.

The present application was brought under section 55 of the Women's Charter (Cap. 47) for an equal share or share that the court may think just in the said property known as No. 31 Moonbeam Walk. The applicant said that she contributed a sum of $13,000 towards the purchase of the said house and the balance of $29,000 was obtained by the respondent by way of a mortgage loan. She claimed that from November 1968 to December 1972 she also contributed to the running of the matrimonial home apart from other gifts which she made to the respondent during the years 1967-1972.

Held: (1) in dealing with the applicant's claim the court must consider the common intention of the parties at the time of the purchase of the matrimonial home as well as the conduct of the parties throughout in the light of the surrounding circumstances;

(2) the applicant made a substantial financial contribution towards the acquisition and the running of the matrimonial home which justified the conclusion that it was the common intention of both spouses that they should share the house even though the conveyance was taken in the name of the husband alone;

(3) the court would allow the applicant's claim for her half share as a rule of law and not as an inference of fact: The maxim "equality is equity" was applied.

Cases referred to:-

(1) *Gissing* v. *Gissing* [1971] A.C. 886.

(2) *Hazell* v. *Hazell* [1972] 1 All E.R. 923.